

## SENATE BILL NO. 368

INTRODUCED BY D. SHEA, BITNEY, HALLIGAN, MCNUTT

A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING FOR THE RECORDING OF MASTER FORM MORTGAGES AND MASTER FORM DEEDS OF TRUST BY COUNTY CLERKS;~~ ALLOWING AN INSTRUMENT THAT IS TO BE RECORDED TO INCORPORATE INFORMATION BY REFERENCE FROM OTHER RECORDED INSTRUMENTS; AND AMENDING SECTIONS 7-4-2613 AND 72-16-503, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-4-2613, MCA, is amended to read:

**"7-4-2613. Documents subject to recording.** (1) The county clerk shall, upon the payment of the appropriate fees, record by printing, typewriting, ~~or~~ photographic, micrographic, or electronic process or by the use of prepared blank forms:

(1)(a) ~~(a)(i)~~ subject to ~~subsection~~ subsections SUBSECTION (1)(b)(a)(ii) and (1)(a)(iii), deeds, grants, transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property any part of which is situated in the county, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, reconveyances by trustees of deeds of trust, assignments of mortgages and deeds of trust, powers of attorney to convey real estate, leases that have been acknowledged or proved, and abstracts of the instruments that have been acknowledged or proved;

~~(b)(ii)~~ an instrument or deed evidencing either a division of real property or a merger of real property only if the instrument or deed is accompanied by a certification from the county treasurer that taxes and special assessments that have been assessed and levied have been paid;

~~(iii) an instrument, identified by its title as "master form mortgage" or "master form deed of trust", that does not need to be signed or acknowledged in order to be recorded and that contains a form or forms of covenants, conditions, obligations, powers, and other clauses of a mortgage or deed of trust;~~

~~(2)(b)~~ notices of buyer's interest in real property, notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract for deed, or other document relating to the notice of buyer's interest. However, if the instrument of conveyance underlying a notice of buyer's interest would be unrecordable, the clerk and recorder shall notify the buyer by certified mail that the underlying

1 instrument is unrecordable and may be void<sup>2</sup>;

2 ~~(3)(c)~~ except as provided in 72-16-503, a document on a form provided by the department of  
3 revenue certifying that the holder of a nonprobate interest in real property is deceased and that the  
4 deceased's interest is terminated. A nonprobate interest in real property is a joint tenancy interest, a life  
5 estate interest, or any other interest not requiring probate. The document may be on the form used by the  
6 department of revenue for responding to the application for determination of estate tax. It must contain:

7 ~~(a)(i)~~ a statement that the holder of the nonprobate interest has died and that the holder's interest  
8 in the property is terminated;

9 ~~(b)(ii)~~ a certification by the county treasurer that the estate tax, if any tax was due, has been paid  
10 or that estate tax was not due; and

11 ~~(c)(iii)~~ a description of the property<sup>2</sup>;

12 ~~(4)(d)~~ certificates of births and deaths;

13 ~~(5)(e)~~ wills devising real estate admitted to probate;

14 ~~(6)(f)~~ official bonds;

15 ~~(7)(g)~~ transcripts of judgments that by law are made liens upon real estate;

16 ~~(8)(h)~~ instruments describing or relating to the individual property of married persons;

17 ~~(9)(i)~~ all orders and decrees made by the district court in probate matters affecting real estate and  
18 that are required to be recorded;

19 ~~(10)(j)~~ notice of preemption claims;

20 ~~(11)(k)~~ notice and declaration of water rights;

21 ~~(12)(l)~~ assignments for the benefit of creditors;

22 ~~(13)(m)~~ affidavits of annual work done on mining claims;

23 ~~(14)(n)~~ notices of mining locations and declaratory statements;

24 ~~(15)(o)~~ estrays and lost property;

25 ~~(16)(p)~~ a book containing appraisal of state lands; and

26 ~~(17)(q)~~ other writings that are required or permitted by law to be recorded.

27 (2) Any instrument that qualifies for recording under this section may incorporate by reference any  
28 provision, statement, description, or other language or material that is contained in another properly  
29 recorded instrument and that is recorded in the same county as the instrument that is incorporating the  
30 language or material by reference is to be recorded."

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2       **Section 2.** Section 72-16-503, MCA, is amended to read:

3       **"72-16-503. Additional filings required when real property involved and no representative.** (1) If  
4   an interest in real property is involved under 72-16-502, the applicant shall record with the clerk and  
5   recorder of each county in which the real property or any part of the property is located a document  
6   containing those matters required by 7-4-2613(3)(1)(c). A surviving joint tenant described in 72-16-313(1)  
7   or (2) is not subject to the recording requirements under 7-4-2613(3)(1)(c).

(2) A surviving joint tenant described in 72-16-313(1) or (2) with an interest in real property under 72-16-502 shall record with the clerk and recorder of each county in which the real property is located an acknowledged statement that the holder of the nonprobate interest has died and that the holder's interest in the property is terminated. The acknowledged statement must include a legal description of the real property."

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